

NINOMIYA ET AL. -- 10/791,274
Client/Matter: 008312-0308597

REMARKS

Claim 18 is amended hereby. Claim 20 is canceled hereby. Accordingly, after entry of this Amendment, claims 4-19 and 21-33 will remain pending. Since claims 4-17 and 25-33 have been withdrawn from further consideration, claims 18-19 and 21-24 are currently under examination.

This Amendment is being presented in connection with the filing of a Request for Continued Examination of the above-captioned patent application. Accordingly, the Applicant respectfully requests entry of this Amendment before examination of the claims presented hereby.

In the Office Action, the Examiner indicated that the term "configured to" is not a positive limitation but only requires the ability to perform the recited function. Accordingly, the Examiner indicated that, if a prior art structure is capable of performing the intended use, then it meets the claim. The Applicant acknowledges the Examiner's interpretation of this limitation. No amendments are presented in response thereto.

In the Office Action dated October 19, 2005, the Examiner provisionally rejected claims 18-24 under the judicially-created doctrine of obviousness-type double patenting in view of claim 1 of co-pending U.S. patent application serial no. 10/805,497. In addition, the Examiner rejected claims 18-24 under 35 U.S.C. § 102(b) as anticipated by Uchida et al. (U.S. Patent No. 6,057,051). Next, claims 18-24 were rejected under 35 U.S.C. § 102(b) as anticipated by Colborn (U.S. Patent No. 6,522,955). The Applicant respectfully disagrees with the rejections asserted by the Examiner and, therefore, respectfully traverses the same.

Concerning the obviousness-type double patenting rejection, the Applicant respectfully reproduces published claim 1 from the co-pending application below (U.S. Patent Application Publication No. 2004/0234828).

1. An electronic apparatus comprising:
 - a body;
 - a display unit provided on the body;
 - a fuel cell unit configured to include a fuel cell capable of supplying electrical power to the body and a fuel holding unit for holding fuel used in the fuel cell;
 - a sensing unit configured to sense whether or not leakage of the fuel has occurred in the fuel cell unit; and
 - a control unit configured to display information about leakage on the display unit when the sensing unit has sensed the leakage of the fuel.

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There are several features recited by claims 18-19 and 21-24 that are not included in claim 1 of the co-pending application. Among them, the claims of the present application include a fuel cell unit that is detachably connected to the body, a tank configured to hold fuel for the fuel cell, a sensing unit configured to sense a remaining amount of fuel in the tank, a storage unit which stores information indicating the remaining amount of fuel, a controller which acquires the information from the storage unit indicating the remaining amount of fuel sensed by the sensing unit, and a display unit configured to display the remaining amount of fuel according to the acquired information.

In addition, the Applicant respectfully points out that claims 18-19 and 21-24 in the present application include a controller which acquires the information from the storage unit indicating the remaining amount of fuel sensed by the sensing unit. Claim 1 in the co-pending application, by contrast, includes a control unit configured to display information about leakage on the display unit when the sensing unit has sensed the leakage of the fuel. The controller and the control unit, therefore, perform different functions from one another.

The Applicant respectfully submits, therefore, that the Examiner's characterization of the only difference between the two applications being the tank for the fuel cell overlooks many of the other features recited by claims 18-19 and 21-24. Accordingly, the Applicant respectfully submits that claims 18-19 and 21-24 are not properly rejected under the doctrine of obviousness-type double patenting in view of claim 1 of the co-pending application. As a result, the Applicant respectfully requests that the Examiner withdraw the rejection.

Concerning the rejection of the claims under 35 U.S.C. § 102(b), the Applicant respectfully submits that neither Uchida et al. nor Colborn describe each and every feature that are recited by claims 18-19 and 21-24. As a result, neither reference may anticipate any of claims 18-19 and 21-24.

Uchida et al. describes a polymer electrolyte fuel cell that relies on ion exchange membranes for generation of electricity. (Uchida et al. at col. 5, lines 20-23.) The Applicant respectfully points out that Uchida et al. does not disclose a fuel cell with a storage unit that stores information indicating the remaining amount of fuel and a body with a controller that acquires the stored information from the storage unit. Colborn describes a system and method for power management for monitoring and controlling a regenerative fuel cell and a powered device. Like Uchida et al., however, Colborn also does not discuss a fuel cell including a storage unit that stores information indicating the remaining amount of fuel and a body comprising a controller that acquires the stored information from the storage unit.

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Since both references fail to describe each and every feature as recited by claims 18-19 and 21-24, the Applicant respectfully submits that the two references cannot anticipate any of claims 18-19 and 21-24.

Each of the rejections having been addressed, the Applicant respectfully requests that the Examiner reconsider the rejections of claims 18-19 and 21-24, withdraw the rejections, and pass this application quickly to issuance.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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